

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO
AND
BREATHE CALIFORNIA**

THIS AGREEMENT, entered into this _____ day of _____, 20_____,
by and between the COUNTY OF SAN MATEO, hereinafter called "County," and Breathe
California, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract
with independent contractors for the furnishing of such services to or for County or any
Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose
of providing Youth Cessation Services.

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO
AS FOLLOWS:**

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference
herein:

- Exhibit A - Program/Project Description
- Exhibit B - Method and Rate of Payment
- Exhibit C - Outcome Based Management Responsibilities
- Exhibit D - Equal Benefits Compliance Declaration Form
- Attachment I - §504 Compliance
- Attachment II - Health Insurance Portability and Accountability Act (HIPAA)
- Attachment III - Fingerprinting Certification Form

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall
perform services for County in accordance with the terms, conditions and specifications set
forth herein and in Exhibit "A."

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed One Hundred Fifty Thousand Dollars, (\$130,000).

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from July 1, 2006, through June 30, 2008.

This Agreement may be terminated by Contractor, the Human Services Director or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the county learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such issuance and to obtain such approval. The Contractor shall furnish the Department/Division with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the Department/Division of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of

the work of this Agreement.

- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- | | |
|---|-------------|
| (a) Comprehensive General Liability | \$1,000,000 |
| (b) Motor Vehicle Liability Insurance | \$1,000,000 |
| (c) Professional Liability | \$1,000,000 |

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment “I,” which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor’s equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;

- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.
- G. *Compliance with Contractor Employee Jury Service Ordinance.* Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employees regular pay the fees received for jury service.

12. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

13. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

14. Controlling Law

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

15. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United State mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed to:

In the case of County, to:

Human Services Agency Tobacco Prevention Program
Attn: Susan Henkin-Haas
400 Harbor Boulevard, Building C
Belmont, CA 94002

In the case of Contractor, to:

Breathe California
Attn: Linda Civitello-Joy
2171 Junipero Serra Boulevard, Suite 720
Daly City, CA 94014-1999

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
Jerry Hill, President, Board of Supervisors,
San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

Breathe California
Linda Civitello-Joy
2171 Junipero Serra Boulevard, Suite 720
Daly City, CA 94014-1999

Contractor's Signature

Date: _____

EXHIBIT A
DESCRIPTION OF SERVICES

**BREATHE CALIFORNIA,
GOLDEN GATE PUBLIC HEALTH PARTNERSHIP**

Tobacco Cessation Services
July 1, 2006 through June 30, 2008

Contractor will provide the following services to the San Mateo County Tobacco Prevention Program. All payments under this Agreement must directly support services specified in this Agreement.

I. Tobacco Cessation Services

1. Tobacco Cessation Facilitator Training

By June 30, 2008 – fifteen to twenty five (15-25) individuals from youth serving organizations including local schools, community based organizations (CBOs), and recovery programs, will be trained *per year* in a variety of the most current smoking cessation interventions.

- a. Contractor will conduct outreach to recruit prospective cessation facilitators to participate in the training workshop.
 - 1) Workshop participants will be non-smokers and have experience with youth development and health education.
 - 2) Outreach will be conducted through community based organizations, schools, hospitals, health centers, relevant city agencies and in the recovery community.
- b. Compile educational packets including the most up to date research regarding youth cessation strategies and behavior change theories.
- c. Train facilitators during a half or full day training session.
Contractor will provide training to 15-25 tobacco cessation facilitators in a variety of current cessation intervention methods (i.e., brief interventions, quit groups, quit kits).
- d. Match tobacco cessation facilitators with sites when necessary.
- e. Evaluation: Training participants will complete an end-of-training satisfaction survey of the training to measure skills and knowledge in providing various cessation methods. Contractor will submit summary of the satisfaction surveys along with copies of the training flyers, the outreach distribution list, and list of participants.

2. Youth Smoking Cessation

By June 30, 2008 – Youth smoking cessation classes and brief interventions (counseling session and quit kit) will be provided to one hundred (100) youth *per year* ages eighteen (18) and under in San Mateo County.

Smoking Cessation Classes:

- a. Recruit youth serving agencies such as high schools, community-based organizations, juvenile probation, and recovery agencies, to host youth cessation classes. Identify and collaborate with a coordinator at each site to implement the program.
- b. When necessary, match a tobacco cessation facilitator to a host site (example: Jefferson Union High School District).
- c. Recruit youth into cessation classes through multiple outreach methods such as cessation awareness presentations, tabling, posters, and announcements.
- d. Prepare and finalize a Memorandum of Understanding (MOU) with host agency and/or tobacco cessation facilitator to ensure that cessation interventions will not supplant existing TUPE programs. TUPE funding goes directly to the schools from the California Department of Health/Tobacco Control Section and our programs can not support services that are already covered by TUPE funding).
- e. Evaluation: Youth who attend cessation classes will complete a satisfaction survey, pre and post surveys to measure quit smoking status, and 3-month follow-up to measure abstinence rate or numbers of cigarettes smoked. Youth who attend cessation awareness presentations will also complete satisfaction survey.

Brief interventions (counseling session and quit kit):

- a. Brief interventions utilizing quit kits are designed specifically to assist individuals who have decided to quit smoking. Each youth who participates in a brief intervention must complete a 20-minute counseling session with a trained cessation facilitator prior to receiving a quit kit. Each quit kit will contain key items to support in smoking cessation (i.e. handbook, educational brochures, gum, stress ball.)
- b. Recruit youth to participate in brief intervention through various outreach methods including presentations, tabling, posters, and announcements.
- c. Follow-up support (via phone, email, and/or in-person) will be conducted with each youth participating, no more than 2 weeks after receiving the quit kit. Ongoing one-on-one cessation support (phone counseling, emails) may be continued if desired by youth.

d. Evaluation: One-month and three-month post evaluations will be conducted with each youth receiving a quit kit to ascertain current smoking status.

3. Smoking Cessation for Youth in Substance Abuse Treatment

By June 30, 2008 – Smoking cessation classes and/or brief interventions will be provided to support smoking cessation to at least twenty (20) youth *per year*, ages eighteen (18) and under, within substance abuse treatment agencies in San Mateo County.

- a. Send out introductory letters to all substance abuse recovery programs that work with youth to inform them of the availability of cessation services and support.
- b. Conduct at least one (1) to two (2) staff in-service meetings or trainings at substance abuse treatment provider sites in San Mateo County to raise awareness about the importance of tobacco cessation as part of substance abuse recovery process.
- c. Recruit no less than twenty (20) youth to participate in smoking cessation classes and/or brief interventions at any of the substance abuse and recovery sites serving youths in San Mateo County.
- d. Conduct three (3) month follow-up with clinic participants.
- e. Evaluation: Youth who attend cessation classes will complete a satisfaction survey, pre and post surveys to measure quit smoking status, and 3-month follow-up to measure abstinence rate or numbers of cigarettes smoked. Youths who attend cessation awareness presentations will also complete satisfaction survey. Youth who participate in brief interventions will be contacted within two (2) weeks of receiving quit kit and will complete one-month and three-month surveys to assess current smoking status.

4. San Mateo Community College District Smoking Cessation

By June 30, 2008 – Contractor will provide smoking cessation services utilizing brief interventions at one (1) to two (2) colleges within the San Mateo Community College District serving at least twenty (20) students *per year*. In providing these services the Contractor will:

- a. Recruit college students to participate in brief interventions through a variety of outreach methods including tabling, flyers, announcements on school website and in school newspapers, and collaboration with school nurses/school health centers.
- b. Each student who participates in a brief intervention must complete a 20-minute counseling session with a trained cessation facilitator prior to receiving a quit

kit. Each quit kit will contain key items to support in smoking cessation (i.e. handbook, educational brochures, gum, stress ball.)

- c. Follow-up support (via phone, email, and/or in-person) will be conducted with each student participating, no more than 2 weeks after receiving the quit kit. Ongoing one-on-one cessation support (phone counseling, emails) may be continued if desired by student.
- e. Evaluation: One-month and three-month post-evaluations will be conducted with each youth receiving a quit kit to assess current smoking status.

II. Administrative and Reporting Requirements

Contractor will meet the following administrative and reporting requirements designed to support the activities described in Section I.A. of Exhibit A.

1. Assure that activities are language, culture, age and gender sensitive.
2. Send a representative to the following programs:
 - a. Regularly scheduled quarterly Tobacco Education Coalition (TEC) meetings.
 - b. TEC Youth Advisory Committee, Youth Coalition, and the Youth Appreciation Ceremony.
 - c. TPP Contractor orientation and one (1) to two (2) training events sponsored by the TPP for subcontractors and TEC members.
 - d. Tobacco education ethnic network, regional or statewide programs, meetings and conferences (optional, as time allows).
3. Maintain service delivery documentation for all direct services that will include, but not be limited to:
 - a. Sign-in sheets
 - b. Activity logs
4. Maintain documentation of referral criteria, evaluation materials, and reports pertaining to program activities.
5. Maintain all documentation necessary to report on progress toward outcome objectives of services.
6. Submit to Alcohol and Drug Services any tobacco prevention outcome objectives data and reports as directed by the County Alcohol and Drug Services Administrator or her designee.

7. Provide other documentation and statistical information as determined by the Alcohol and Drug Services Administrator in consultation with Contractor.
8. Report any unusual incidents occurring in connection with the performance of this Agreement with regards to Contractor's program(s), within twenty-four (24) hours of the incident, as well as a written report to the County Alcohol and Drug Services Administrator, within seven (7) calendar days of any unusual incident. Unusual incidents include, but are not limited to the following:
 - a. Situations arising which would seriously hamper the ability of the agency to deliver its services under this agreement with the County (including loss of key personnel)
 - b. Serious personal injury;
 - c. Serious property damage; and
 - d. Food poisoning resulting from food provided at meetings.
9. Administer tobacco prevention program surveys as directed by the Alcohol and Drug Services Administrator or her designee.
10. Submit quarterly progress reports by the fifteenth (15th) day following the end of the previous quarter. Include with quarterly progress reports:
 - a. Summary of activities for the quarter, including meetings attended, sessions conducted and number of clients served.
 - b. Materials developed during the quarter (flyers, invitations, programs, etc.).
11. Submit a written End-of-Project report by July 15, 2008.
12. Present an oral report at the final TEC (Tobacco Education Coalition) meeting during the contract term.
13. TPP staff will conduct one (1) site review of Contractor's program.

III. Performance Measures

Contractor will work collaboratively with Tobacco Prevention Program staff to design and implement a simple method of conducting outcome or impact evaluations that can be completed by June 30, 2008.

1. A pre and post test of youth cessation participants from the general population will show at least a twenty-five (25) to thirty (30) percent quit rate and a thirty (30) to thirty-five (35) percent reduction in cigarettes smoked by the end of the cessation class or brief intervention. A twenty (20) to twenty-five (25) percent quit rate will be measured by a three (3) month follow up.

2. A pre and post test of youth cessation participants from substance abuse recovery agencies will show at least a twenty-five (25) to thirty (30) percent quit rate and a thirty (30) to thirty-five (35) percent reduction in cigarettes smoked at the end of the class or brief intervention. A twenty (20) to twenty-five (25) percent quit rate will be measured by a three (3) month follow-up.

EXHIBIT B
PAYMENT AND RATE

**BREATHE CALIFORNIA,
GOLDEN GATE PUBLIC HEALTH PARTNERSHIP**

Tobacco Cessation Services
July 1, 2006 through June 30, 2008

In full consideration of the tobacco cessation services provided by Contractor, County shall pay Contractor as follows:

A. County shall reimburse Contractor monthly, in arrears, for actual expenditures incurred. All reimbursements will be based upon Contractor's approved program budget. Contractor shall submit a monthly invoice and financial statement for expenses incurred the previous month by the tenth (10th) day following the end of the invoiced month. All payments under this Agreement must directly support services specified in this Agreement.

1. County shall have the right to withhold payment if County determines that the quality or quantity of the work performed is unacceptable. Approval of the final payment is contingent upon satisfactory completion of all activities described in Section 1 of Exhibit A.

B. Total payments to Contractor under this Agreement shall not exceed the maximum contract obligation of One Hundred Thirty Thousand Dollars (\$130,000) for the term of this Agreement and payments shall be made as follows:

1. For the time period 7/1/06 - 6/30/07, payments shall not exceed \$65,000 as follows for:
 - a. Youth Cessation Services of \$65,000;
2. For the time period 7/1/07 - 6/30/08, payments shall not exceed \$65,000 as follows:
 - a. Youth Cessation Services of \$65,000.

C. County may terminate this Agreement or a portion of the services referred to in the Exhibit based upon the availability of federal, state or County funds by providing thirty (30) days written notice to Contractor. Contractor shall be entitled to receive payment for services rendered under this Agreement during the thirty (30) day period.

D. County shall pay Contractor within 30 days of receipt of invoice, provided invoice is accurate and any supporting documentation required for payment of invoice is also accurate. Invoices and/or supporting documentation that are inaccurate or contains inconsistencies must first be corrected and a new invoice submitted. County shall pay Contractor within 30 days of receipt of corrected invoice and/or supporting documentation.

Exhibit C
Outcome Based Management Initiative

**BREATHE CALIFORNIA,
GOLDEN GATE PUBLIC HEALTH PARTNERSHIP**

Responsibilities Relating to the County's OBM Initiative:

Contractor Responsibilities

Contractor will engage in activities and supply information required to implement the County's Outcome-Based Management and Budgeting (OBM) initiative. Activities include, but are not limited to:

- Attending planning and informational meetings;
- Developing program performance and outcome measurements;
- Collecting and submitting data necessary to fulfill measurement requirements;
- Participating in technical assistance and training events offered by the Human Services Agency and seeking technical assistance and training necessary to fulfill measurement requirements;
- Participating in a review of performance and outcome information; and
- Complying with OBM Implementation Guidelines as specified in memos released by the Human Services Agency.

County Responsibilities

County, through the Human Services Agency, will

- Provide technical assistance and support to assist Contractor's implementation of the County's Outcome-Based Management and Budgeting (OBM) initiative;
- Issue and review OBM Implementation Guidelines; and
- Conduct review of performance and outcome information.

Exhibit D
COUNTY OF SAN MATEO
Equal Benefits Compliance Declaration Form

I Vendor Identification

Name of Contractor Breathe California
Contact Person Linda Civitello-Joy, President
Address: 2171 Junipero Serra Boulevard, Suite 270
Daly City, CA 94014-1999
Phone Number (650) 994-5868
Fax Number (650) 994-4601

II Employees

Does the Contractor have any employees? Yes No

Does the Contractor provide benefits to spouses of employees? Yes No

(If the answer to one or both of the above is no, please skip to Section IV.)

III Equal Benefits Compliance (Check one)

- Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- No, the Contractor does not comply.
- The Contractor is under a collective bargaining agreement which began on _____ (date) ,and expires on _____ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Signature

Name (Please Print)

Title

Date

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. Employs fewer than 15 persons.
- b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person - Type or Print

Name of Contractor(s) - Type or Print

Street Address or P.O. Box

City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge.

Signature

Title of Authorized Official

Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

ATTACHMENT II
Health Insurance Portability and Accountability Act (HIPAA)
Business Associate Requirements

Definitions

Terms used, but not otherwise defined, in this Schedule shall have the same meaning as those terms are defined in 45 Code of Federal Regulations section 160.103 164.304 and 164.501. (All regulatory references in this Schedule are to Title 45 of the Code of Federal Regulations unless otherwise specified.)

- a. *Designated Record Set.* “Designated Record Set” shall have the same meaning as the term “designated record set” in Section 164.501.
- b. *Electronic Protected Health Information.* “Electronic Protected Health Information” (“E PHI”) means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- c. *Individual.* “Individual” shall have the same meaning as the term “individual” in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- d. *Privacy Rule.* “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- e. *Protected Health Information.* “Protected Health Information” shall have the same meaning as the term “protected health information” in Section 164.501 and is limited to the information created or received by Contractor from or on behalf of County.
- f. *Required By Law.* “Required by law” shall have the same meaning as the term “required by law” in Section 164.501.
- g. *Secretary.* “Secretary” shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- h. *Security Incident.* “Security Incident” shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, “pings”, or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate
- i. *Security Rule.* “Security Rule” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

Obligations and Activities of Contractor

- a. Contractor agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as required by law.

- b. Contractor agrees to use appropriate safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Protected Health Information by Contractor in violation of the requirements of this Agreement.
- d. Contractor agrees to report to County any use or disclosure of the Protected Health Information not provided for by this Agreement.
- e. Contractor agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Contractor on behalf of County, agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
- f. If Contractor has protected health information in a designated record set, Contractor agrees to provide access, at the request of County, and in the time and manner designated by County, to Protected Health Information in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under Section 164.524.
- g. If Contractor has protected health information in a designated record set, Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the County directs or agrees to make pursuant to Section 164.526 at the request of County or an Individual, and in the time and manner designed by County.
- h. Contractor agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Contractor on behalf of, County available to the County, or at the request of the County to the Secretary, in a time and manner designated by the County or the Secretary, for purposes of the Secretary determining County's compliance with the Privacy Rule.
- i. Contractor agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

- j. Contractor agrees to provide to County or an Individual in the time and manner designated by County, information collected in accordance with Section (i) of this Schedule, to permit County to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- k. Contractor shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Contractor creates, receives, maintains, or transmits on behalf of County.
- l. Contractor shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- m. Contractor shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.
- n. Contractor shall report to County any Security Incident within 5 business days of becoming aware of such incident.
- o. Contractor shall make its policies, procedures, and documentation relating to the security and privacy of protected health information, including EPHI, available to the Secretary of the U.S. Department of Health and Human Services and, at County's request, to the County for purposes of the Secretary determining County's compliance with the HIPAA privacy and security regulations.

Permitted Uses and Disclosures by Contractor

Except as otherwise limited in this Schedule, Contractor may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, County as specified in the Agreement; provided that such use or disclosure would not violate the Privacy Rule if done by County.

Obligations of County

- a. County shall provide Contractor with the notice of privacy practices that County produces in accordance with Section 164.520, as well as any changes to such notice.
- b. County shall provide Contractor with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Contractor's permitted or required uses and disclosures.
- c. County shall notify Contractor of any restriction to the use or disclosure of Protected Health Information that County has agreed to in accordance with Section 164.522.

Permissible Requests by County

County shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by County, unless the Contractor will use or disclose Protected Health Information for, and if the Agreement provides for, data aggregation or management and administrative activities of Contractor.

Duties Upon Termination of Agreement

- a. Upon termination of the Agreement, for any reason, Contractor shall return or destroy all Protected Health Information received from County, or created or received by Contractor on behalf of County. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of the Protected Health Information.
- b. In the event that Contractor determines that returning or destroying Protected Health Information is infeasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor maintains such Protection Health Information.

Miscellaneous

- a. *Regulatory References.* A reference in this Schedule to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- b. *Amendment.* The Parties agree to take such action as is necessary to amend this Schedule from time to time as is necessary for County to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- c. *Survival.* The respective rights and obligations of Contractor under this Schedule shall survive the termination of the Agreement.
- d. *Interpretation.* Any ambiguity in this Schedule shall be resolved in favor of a meaning that permits County to comply with the Privacy Rule.
- e. *Reservation of Right to Monitor Activities.* County reserves the right to monitor the security policies and procedures of Contractor

**ATTACHMENT III
FINGERPRINTING COMPLIANCE**

**BREATHE CALIFORNIA,
GOLDEN GATE PUBLIC HEALTH PARTNERSHIP**

- A. In accordance with the Child Abuse Prevention and Reporting section of this Agreement, Contractor agrees as follows: Each applicant for employment or a volunteer position at Contractor's program who will have a supervisory or disciplinary power over a minor or any person under his or her care will be fingerprinted in order to determine whether they have a criminal history which would compromise the safety of such minor(s) or person(s) under his or her care. (Penal Code 11105.3(a), as amended in 1990 by AB 2617). All fingerprinting will be at Contractor's sole expense.

- B. The fingerprinting process will be completed and the results of the process will be obtained before any of Contractor's employees, subcontractors, assignees or volunteers are assigned or permitted to work at the program. Alternatively, the Contractor may set a hire date prior to obtaining fingerprinting results contingent on the applicant certifying that: (1) his or her employment application truthfully and completely discloses whether he or she has ever been convicted of a felony or misdemeanor or been on parole or probation, and (2) that the applicant understands that a background check will be conducted, and that he or she will be dismissed from employment immediately if he or she has failed to provide information regarding convictions, has provided incomplete information regarding convictions, has omitted information regarding convictions, or if the fingerprinting results reveal any conviction incompatible with this employment.

- C. Contractor will maintain, and will make available to County upon request, a written fingerprint certification for each applicant for employment or a volunteer position at the program for whom fingerprinting is required. Such certification shall state that the individual has been fingerprinted, that the process has disclosed no criminal history on the part of the individual which would compromise the safety of persons with whom that individual has contact. Fingerprint information received from the Department of Justice (DOJ) will be retained or disposed of pursuant to DOJ directive.

Name (Signature)

Title

Date